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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,647	01/13/2004	Jeffrey A. Zimmerman	P-5231DIV	3944

7590

10/06/2005

Thomas W. Ryan  
PIPER RUDNICK LLP  
P.O. Box 64807  
Chicago, IL 60664-0807

EXAMINER
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CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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# **Notice of Non-Compliant Amendment (37 CFR 1.121)**

Application No.

10/757,647

Examiner

Ivars C. Cintins

Applicant(s)

ZIMMERMAN ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 01 November 2004 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See attached supplement.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

## **TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

- Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
- Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

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Supplement to Notice of Non-Compliant Amendment

Initially, Applicant is advised that the amendment filed November 1, 2004, and its copy filed March 8, 2005, contains an incorrect serial number (i.e. 10/747,647). Also, the terminal disclaimer filed November 1, 2004, and its copy filed March 8, 2005, has not been accepted for this reason. Applicant should resubmit this terminal disclaimer with the correct serial number of this application (i.e. 10/757,647); and must include this correct serial number on all future responses.

The amendment filed November 1, 2004, and its copy filed March 8, 2005, is considered to be non-compliant, under 37 CFR § 1.121, because claims 13, 15 and 20 fail to contain correct markings for all of the changes being made; and claim 20 employs an incorrect status identifier.

For example, the amendment filed November 1, 2004 deletes the lower case letters preceding the recited structural elements in claims 13, 15 and 20 (i.e. "a." through "g." for claim 13; "a." through "h." for claim 15; and "a." through "c." for claim 20), but fails to provide strikethrough or double brackets for these deletions, as required by 37 CFR § 1.121. Also, the above noted amendment inserts the term "means for filling said brine tank with water for an amount of time at least as great as said theoretical fill time" in claim 13 (i.e. in lines 13-14), but fails to underline this addition, as required by 37 CFR § 1.121.

Furthermore, the status identifier (i.e. Original) for claim 20 is incorrect, since Applicant has deleted the letters "a." through "c." from this claim; and therefore, its status identifier should be "currently amended."

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Moreover, Applicant should note that the term "said temperature" (amended claim 13, line 9) does not have proper antecedent basis in this claim. Applicant should correct this informality in the next response filed.

Since the reply filed on November 1, 2004, and its copy filed March 8, 2005, appears to be bona fide, Applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR § 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

The centralized facsimile number for the USPTO is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ivars C. Cintins  
Primary Examiner  
Art Unit 1724

I. Cintins  
October 2, 2005